

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SNEH NIRANJAN,

Plaintiff,

No. C 12-05706 WHA

v.

BANK OF AMERICA, N.A.; RECONTRUST
COMPANY; DEUTSCHE BANK NATIONAL
TRUST COMPANY, AS TRUSTEE FOR THE
CERTIFICATE HOLDERS OF HARBORVIEW
MORTGAGE LOAN TRUST 2004-11,
ASSETBACKED PASS-THROUGH
CERTIFICATES, SERIES 2004-11
INDIVIDUALLY; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and DOES 1
through 100 inclusive,

Defendants.

**ORDER STRIKING
FIRST AMENDED
COMPLAINT AND
SETTING BRIEFING
SCHEDULE**

Plaintiff filed this action in November 2012. On January 24, 2013, defendants filed a motion to dismiss. Pursuant to Local Rule 7-3, plaintiff's opposition or statement of non-opposition thereto was due by February 7. None was received. After the action was reassigned to the undersigned judge on February 22, defendants renoticed their motion for hearing on April 4. As no response from plaintiff had yet been filed, an order issued setting a briefing schedule and requiring plaintiff's opposition or statement of non-opposition to be filed by March 13. None was received.

Plaintiff, who is represented by counsel, twice failed to meet court deadlines to respond to defendants' motion to dismiss. Therefore, an order to show cause why the action should not


1 be dismissed for lack of prosecution was issued on March 19, following which plaintiff's
2 counsel responded with inadequate excuses. Counsel then filed an amended complaint, which
3 purports to drop one defendant and allege three additional claims for relief (Dkt. Nos. 27 and
4 29). The filing was made a week past plaintiff's latest deadline to respond, and plaintiff neither
5 properly justified the delay nor petitioned for leave to amend before doing so. The Court
6 requested that plaintiff provide a redline document comparing the original and proposed
7 amended complaint. None was received.

8 The proposed amended complaint does not appear to attempt to address or correct
9 the deficiencies identified in the motion to dismiss, and appears to have been filed without
10 justification in contravention of the Federal Rules of Civil Procedure and the Local Rules.
11 No good cause was shown. This end-run around the rules is not proper. Accordingly, the
12 amended complaint, Docket Number 27, is hereby **STRICKEN**. See FRCP 15(a)(2). Plaintiff is
13 **ORDERED** to respond to the motion to dismiss the *original complaint* by **NOON ON MONDAY,**
14 **APRIL 1**. Defendants' reply is due by **NOON ON MONDAY, APRIL 8**. A hearing on the motion is
15 set for **THURSDAY, APRIL 18, 2013 AT 8:00 A.M.**

16 Plaintiff is warned that failure to timely respond to this order may result in the motion to
17 dismiss being granted or the action being dismissed for failure to prosecute.

18
19 **IT IS SO ORDERED.**

20
21 Dated: March 27, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE